



## TERMINAL DISCLAIMER TO OBLIVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket Number (Optional)  
021430-000210US

In re Application of: Budach et al.

Application No. 10/043,629

Filed: January 10, 2002

For: SENSOR PLATFORM, APPARATUS INCORPORATING THE PLATFORM, AND PROCESS USING THE PLATFORM

The owner\*, Novartis AG, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 09/609,846, filed on July 5, 2000, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1.  For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2.  The undersigned is an attorney of record.

Signature

January 21, 2004

Date

01/29/2004 CCHAU1 00000183 201430 10043629

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\_\_\_\_\_  
Gerald T. Gray, Reg. No. 41,797\_\_\_\_\_  
Typed or printed name\_\_\_\_\_  
(925) 472-5000\_\_\_\_\_  
Telephone Number Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)  
**110**

Complete if Known	
Application Number	10/043,629
Filing Date	January 10, 2002
First Named Inventor	Budach, Wolfgang E.
Examiner Name	Patrick J. Connolly
Art Unit	2877
Attorney Docket No.	021430-000210US

#### METHOD OF PAYMENT (check all that apply)

Check    Credit Card    Money Order    Other    None  
 Deposit Account:

Deposit Account Number

**20-1430**

Deposit Account Name

**Townsend and Townsend and Crew LLP**

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below    Credit any overpayments  
 Charge any additional fee(s) or any underpayment of fee(s)  
 Charge fee(s) indicated below, except for the filing fee  
 to the above-identified deposit account.

#### FEE CALCULATION

##### 1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid
Fee Code (\$)	Fee Code (\$)		
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

**SUBTOTAL (1)**

**(\$)**

##### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims			X	
Independent Claims			X	
Multiple Dependent			X	

##### Large Entity

Large Entity	Small Entity	Fee Description
Fee Code (\$)	Fee Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)**

**(\$)**

\*or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES	FEE DESCRIPTION (continued)		
Large Entity	Entity	Small Entity	Entity
Fee Code (\$)	Fee Code (\$)	Fee Code (\$)	Fee Description
1051 130	2051 65	1053 130	Surcharge - late filing fee or oath
1052 50	2052 25	1812 2,520	Surcharge - late provisional filing fee or cover sheet.
		1804 920*	Non-English specification
		1805 1,840*	For filing a request for reexamination
		1805 1,840*	Requesting publication of SIR prior to Examiner action
		1251 110	Requesting publication of SIR after Examiner action
		1252 420	Extension for reply within first month
		1253 950	Extension for reply within second month
		1254 1,480	Extension for reply within third month
		1255 2,010	Extension for reply within fourth month
		1401 330	Extension for reply within fifth month
		1402 330	Notice of Appeal
		1403 290	Filing a brief in support of an appeal
		1451 1,510	Request for oral hearing
		1452 110	Petition to institute a public use proceeding
		1453 1,330	Petition to revive – unavoidable
		1501 1,330	Petition to revive – unintentional
		1502 480	Utility issue fee (or reissue)
		1503 640	Design issue fee
		1460 130	Plant issue fee
		1807 50	Petitions to the Commissioner
		1806 180	Petitions related to provisional applications
		8021 40	Submission of Information Disclosure Stmt
		1809 770	Recording each patent assignment per property (times number of properties)
		1810 770	Filing a submission after final rejection (37 CFR § 1.129(a))
		1801 770	For each additional invention to be examined (37 CFR § 1.129(b))
		1802 900	Request for Continued Examination (RCE)
		1803 110	Request for expedited examination of a design application
			Other fee (specify) Terminal Disclaimer Fee
			(\$110)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)**

**(\$110)**

#### SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Gerald T. Gray	Registration No. (Attorney/Agent)	41,797	Telephone	925-472-5000
Signature	<i>Gerald T. Gray</i>			Date	January 21, 2004

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